

(c) Rent for a project easement in addition to lease rent, as provided in § 285.507. You must commence rent payments for your project easement upon our approval of your COP.

§ 285.505 What are the rent and operating fee requirements for a limited lease?

(a) The rent for a limited lease is \$3 per acre per year, unless otherwise established in the Final Sale Notice and your lease instrument.

(b) You must pay the first 6-months rent when MMS issues your limited lease, as provided in § 285.500.

(c) You must pay rent at the beginning of each subsequent 1-year period on the entire lease area for the duration of your operations term in accordance with the regulations at § 218.51 of this chapter.

(d) The MMS will not charge an operating fee for the authorized sale of power from a limited lease.

§ 285.506 What operating fees must I pay on a commercial lease?

If you are generating electricity, you must pay operating fees on your commercial lease when you begin commercial generation, as described in § 285.503.

$$\begin{array}{ccccccc} F & = & M & * & H & * & c \\ \text{(annual operating fee)} & & \text{(nameplate capacity)} & & \text{(hours per year)} & & \text{(capacity factor)} \\ & & & & & * & P \\ & & & & & & \text{(power price)} \\ & & & & & * & r \\ & & & & & & \text{(operating fee rate)} \end{array}$$

(c) The MMS will specify operating fee parameters in the Final Sale Notice for commercial leases issued competitively and in the lease for those issued noncompetitively.

(1) Unless MMS specifies otherwise, in the operating fee rate, (r) is 0.02 for each year the operating fee applies when you begin commercial generation of electricity. We may apply a different fee rate for new projects (*i.e.*, a new generation based on new technology) after considering factors such as program objectives, state of the industry, project type, and project potential. Also, we may agree to reduce or waive the fee rate under § 285.510.

(2) The power price (P), for each year when the operating fee applies, will be determined annually. The process by which the power price will be determined

will be specified in the Final Sale Notice and/or in the lease. The MMS:

(a) The MMS will determine the annual operating fee for activities relating to the generation of electricity on your lease based on the following formula,

$F = M * H * c * P * r$, where:

(1) F is the dollar amount of the annual operating fee;

(2) M is the nameplate capacity expressed in megawatts;

(3) H is the number of hours in a year, equal to 8,760, used to calculate an annual payment;

(4) c is the “capacity factor” representing the anticipated efficiency of the facility’s operation expressed as a decimal between zero and one;

(5) P is a measure of the annual average wholesale electric power price expressed in dollars per megawatt hour, as provided in paragraph (c)(2) of this section; and

(6) r is the operating fee rate expressed as a decimal between zero and one.

(b) The annual operating fee formula relating to the value of annual electricity generation is restated as:

(i) Will use the most recent annual average wholesale power price in the State in which a project’s transmission cables make landfall, as published by the DOE, Energy Information Administration (EIA), or other publicly available wholesale power price indices; and

(ii) May adjust the published average wholesale power price to reflect documented variations by State or within a region and recent market conditions.

(3) The MMS will select the capacity factor (c) based upon applicable analogs drawn from present and future domestic and foreign projects that operate in comparable conditions and on comparable scales.